

## MINUTES OF BENTON COUNTY QUORUM COURT

**August 20, 2013**

A regular meeting of the Benton County Quorum Court was held on Tuesday, August 20, 2013 at 6:00 p.m. at the Benton County Administration Building, 215 East Central Avenue, Bentonville, Arkansas, pursuant to proper call and notice.

In the absence of County Judge Bob Clinard, County Attorney George Spence called the August 20, 2013 Quorum Court meeting to order, and stated that it will be necessary to select a chair person to preside over the meeting.

JP Allen made motion to select JP Kurt Moore as Chair, seconded by JP Jones.

Nominations ceased.

Motion passed by unanimous voice vote.

Deputy Clerk Janet Reaves called roll as follows:

13 JPs Present:	McKenzie, Hernandez, J. Harrison, Allen, K. Harrison, Adams, Jones, Sandlin, Anglin, Curry, Moore, Meyers, Moehring
2 Absent:	*Chiocco, Carr

A legal quorum was present.

The presiding officer led the pledge of allegiance to the flag. Galen Pearcy of Radiant Life Church led the prayer.

### **CHANGES TO THE AGENDA:**

None

### **MINUTES:**

JP J. Harrison made motion to approve the minutes of the July 25, 2013 Quorum Court Meeting as distributed, seconded by JP Curry.

Motion passed by unanimous voice vote.

Minutes approved.

\*JP Michelle Chiocco entered the meeting.

### **ELECTED OFFICIALS REPORTS:**

None

### **COUNTY JUDGE'S REPORT:**

JP Moore reported on the July, 2013 County Property Disposal list.

### **COMMITTEE REPORTS:**

JP Allen reported that the Finance Committee had met and that sales tax numbers and jail collections were good. He stated that fuel is about the same as it has been all year, and that the Fund summary is under control. He stated that the committee discussed EMS and the NEBCO and Pea Ridge ambulance service subsidy requests, and that they have unanimous support.

### **PUBLIC COMMENTS:**

None

### **OLD BUSINESS:**

None

JP J. Harrison made motion to suspend the rules and read all ordinances and resolutions by title only, seconded by JP Sandlin.

Motion passed by unanimous voice vote.

### **NEW BUSINESS:**

- (A) Proposed Resolution Confirming the County Judge's Appointment of Jamee Perryman to the Northwest Arkansas HIV Clinic Board; Sponsor: JP Jay Harrison

County Attorney George Spence read the proposed resolution by title only.

JP J. Harrison made motion to adopt, seconded by JP Curry.

There being no discussion, a roll call vote was recorded as follows:

14 Yeas: McKenzie, Hernandez, J. Harrison, Allen, K. Harrison, Adams,  
Jones, Sandlin, Anglin, Chiocco, Curry, Moore, Meyers, Moehring  
1 Absent: Carr

Resolution duly adopted and assigned **R-2013-25**.

- (B) Proposed Resolution Authorizing the County Judge of Benton County to Apply For an Arkansas Department of Environmental Quality – 2014 E-Waste Grant; Sponsor: JP Jay Harrison

County Attorney George Spence read the proposed resolution by title only.

JP J. Harrison made motion to adopt, seconded by JP Curry.

There being no discussion, a roll call vote was recorded as follows:

14 Yeas: McKenzie, Hernandez, J. Harrison, Allen, K. Harrison, Adams,  
Jones, Sandlin, Anglin, Chiocco, Curry, Moore, Meyers, Moehring  
1 Absent: Carr

Resolution duly adopted and assigned **R-2013-26.**

- (C) Proposed Resolution Granting a Waiver of Policy as Established in Sec 2-516 of the *The Code of Ordinances of Benton County* Regarding Payments Within the salary Range for Various Positions in Dept. 44, County Road, Fund 020; JP Sandlin

County Attorney George Spence read the proposed resolution by title only.

JP Sandlin made motion to adopt, seconded by JP Curry.

There being no discussion, a roll call vote was recorded as follows:

14 Yeas: McKenzie, Hernandez, J. Harrison, Allen, K. Harrison, Adams,  
Jones, Sandlin, Anglin, Chiocco, Curry, Moore, Meyers, Moehring  
1 Absent: Carr

Resolution duly adopted and assigned **R-2013-27.**

- (D) Proposed Appropriation Ordinance Amending Appropriation Ordinance No. O-2012-67 (2013 Benton County Budget) Appropriating Additional Monies and Authorizing Additional Expenditures in Department 38, Environmental Services, Fund 010; Sponsor: JP Jay Harrison

County Attorney George Spence read the proposed appropriation ordinance by title only.

JP J. Harrison made motion to adopt, seconded by JP Sandlin.

There being no discussion, a roll call vote was recorded as follows:

14 Yeas: McKenzie, Hernandez, J. Harrison, Allen, K. Harrison, Adams,  
Jones, Sandlin, Anglin, Chiocco, Curry, Moore, Meyers, Moehring  
1 Absent: Carr

Appropriation Ordinance duly adopted and assigned **O-2013-57.**

- (E) Proposed Appropriation Ordinance Amending Appropriation Ordinance No. O-2012-67 (2013 Benton County Budget) to Appropriate Additional Monies and Authorize Additional Expenditures in Department 38, Environmental Services, Fund 010; Sponsor: JP Jay Harrison

County Attorney George Spence read the proposed appropriation ordinance by title only.

JP J. Harrison made motion to adopt, seconded by JP Jones.

There being no discussion, a roll call vote was recorded as follows:

14 Yeas: McKenzie, Hernandez, J. Harrison, Allen, K. Harrison, Adams,  
Jones, Sandlin, Anglin, Chiocco, Curry, Moore, Meyers, Moehring  
1 Absent: Carr

Appropriation Ordinance duly adopted and assigned **O-2013-58**.

- (F) Proposed Appropriation Ordinance Amending Appropriation Ordinance No. O-2012-67 (2013 Benton County Budget) to Amend Schedule 4 – Personnel and Compensation Authorization by adding Positions, Deleting Positions, Changing Grades, and Changing Job Titles in Various Funds and Departments;  
Sponsor: JP Shirley Sandlin

County Attorney George Spence read the proposed appropriation ordinance by title only.

JP Sandlin made motion to adopt, seconded by JP Jones.

There being no discussion, a roll call vote was recorded as follows:

14 Yeas: McKenzie, Hernandez, J. Harrison, Allen, K. Harrison, Adams,  
Jones, Sandlin, Anglin, Chiocco, Curry, Moore, Meyers, Moehring  
1 Absent: Carr

Appropriation Ordinance duly adopted and assigned **O-2013-59**.

- (G) Proposed Appropriation Ordinance Amending Appropriation Ordinance No. O-2012-67 (2013 Benton County Budget) Authorizing a Transfer of Funds Between Categories and Line Items, Appropriating Additional Monies and Authorizing Additional Expenditures in Various Funds and Departments;  
Sponsor: JP Shirley Sandlin

County Attorney George Spence read the proposed appropriation ordinance title only.

JP Sandlin made motion to adopt, seconded by JP Chiocco.

There being no discussion, a roll call vote was recorded as follows:

14 Yeas: McKenzie, Hernandez, J. Harrison, Allen, K. Harrison, Adams,  
Jones, Sandlin, Anglin, Chiocco, Curry, Moore, Meyers, Moehring  
1 Absent: Carr

Appropriation Ordinance duly adopted and assigned **O-2013-60**.

- (H) Proposed Appropriation Ordinance Amending Appropriation Ordinance No. O-2012-67 (2013 Benton County Budget) Appropriating Additional Monies and Authorizing Additional Expenditures in Department 05, Sheriff's Office, Fund 010; Sponsor: JP Tom Allen

County Attorney George Spence read the proposed appropriation ordinance by title only.

JP Allen stated this appropriation request for the purchase of thirteen Tahoe's will come out of reserves. He stated that the Sheriff has been notified that Chevrolet will stop taking orders for Tahoe's at the end of August because the plant in Michigan is going to close down to switch over to the new model, and orders for new vehicles will not be taken again until the end of next year, causing a significant delay in delivery of the vehicles to the Sheriff's Department.

JP Allen stated that the Finance Committee feels that the amount of money saved by ordering the vehicles now justifies taking the funds out of reserves, and made motion for approval, seconded by JP Jones.

JP McKenzie stated that he is not in favor of taking money out of reserves, and will not support this appropriation request.

There being no further discussion, a roll call vote was recorded as follows:

13 Yeas:	Hernandez, J. Harrison, Allen, K. Harrison, Adams, Jones, Sandlin, Anglin, Chiocco, Curry, Moore, Meyers, Moehring
1 Nay:	McKenzie
1 Absent:	Carr

Appropriation Ordinance duly adopted and assigned **O-2013-61**.

- (I) Proposed Resolution Authorizing the County Judge of Benton County to Apply for a GIF Fire Protection Grant on Behalf of NEBCO Fire and EMS; Sponsor: JP Mike McKenzie

County Attorney George Spence read the proposed resolution by title only.

JP McKenzie stated this resolution request is to apply for the General Improvement Fire Protection Grant from the State of Arkansas, which will allow NEBCO to purchase a 1997 rescue vehicle, and that the matching funds will come from NEBCO's reserve, so no county match will be required.

JP McKenzie made motion to adopt, seconded by JP Sandlin.

JP Moore stated that he applauds NEBCO for being aggressive in trying to get any grants that are available, and for the community support that they enjoy, and he feels privileged to be able to help in any way possible.

There being no further discussion, a roll call vote was recorded as follows:

14 Yeas:	McKenzie, Hernandez, J. Harrison, Allen, K. Harrison, Adams, Jones, Sandlin, Anglin, Chiocco, Curry, Moore, Meyers, Moehring
1 Absent:	Carr

Resolution duly adopted and assigned **R-2013-28**.

- (J) Proposed Appropriation Ordinance Amending Appropriation Ordinance No. O-2012-67 (2013 Benton County Budget) Authorizing a Transfer of Funds between Categories and Line Items; Dept 45, Road Department Bridge Projects, Fund 440; Sponsor JP Tom Allen

County Attorney George Spence read the proposed appropriation ordinance by title only.

JP Allen stated that this appropriation ordinance request is to appropriate \$12,000 to buy five tracks of land for rights-of-way property for the Fisher Ford Bridge project.

JP Allen made motion to adopt, seconded by JP Jones.

There being no discussion, a roll call vote was recorded as follows:

14 Yeas: McKenzie, Hernandez, J. Harrison, Allen, K. Harrison, Adams,  
Jones, Sandlin, Anglin, Chiocco, Curry, Moore, Meyers, Moehring  
1 Absent: Carr

Appropriation Ordinance duly adopted and assigned **O-2013-62**.

**DISCUSSION:**

County Attorney George Spence stated that at the July 25, 2013 Quorum Court meeting, an ordinance was passed which made changes to the personnel policy, and one of those changes was to revamp what had formerly been called the Grievance Committee. He said the committee's name has been changed to the "Grievance Council", and the five members will be appointed by the court instead of the County Judge. He said in the past, the Grievance Committee heard grievances from any Elected Officials Departments except the County Judge's, in which case the grievance was heard by the entire court. He added that in the future, the council will be selected at the organizational meeting, but for the rest of this term, the court has the option to go ahead and select the members for the Grievance Council, or have all 15 members of the court continue to hear all of the grievances.

JP Moore asked if it would be possible to appoint the existing Grievance Committee as the Grievance Council. JP J. Harrison noted that at this time there are 6 members serving on the committee; JP's Chiocco, Jones, K. Harrison, Moehring, Anglin, and Hernandez.

County Attorney George Spence stated that since the Grievance Council is to be only five members, one of the existing members would need to volunteer to be removed.

JP Moehring stated that he would withdraw as a member from the Grievance Committee.

JP Allen made motion to approve and appoint the five previous Grievance Committee members, JP's Chiocco, Jones, J. Harrison, Anglin, and Hernandez to the Grievance Council, seconded by JP Moehring.

There being no further discussion, a roll call vote was recorded as follows:

13 Yeas: McKenzie, Hernandez, J. Harrison, Allen, K. Harrison, Adams, Jones,  
Sandlin, Anglin, Chiocco, Moore, Meyers, Moehring  
1 Nay: Curry  
1 Absent: Carr

Motion passed.

JP Moore stated at the August 13, 2013 Committee of the Whole, it was proposed that if the Quorum Court meeting concluded in a reasonable amount of time, further discussion on EMS service would be held, either under “Other Business” or as the Committee of the Whole.

JP McKenzie made motion to hold the discussion under “Other Business”, seconded by JP Curry.

Motion passed by show of hands vote.

12 Yeas:	McKenzie, Hernandez, J. Harrison, K. Harrison, Adams, Jones, Anglin, Chiocco, Curry, Moore, Meyers, Moehring
2 Nays:	Sandlin, Allen
1 Absent:	Carr

**Emergency Medical Service Funding:**

JP Allen stated that he wanted to remind the Quorum Court that they are still in a Quorum Court meeting, so if someone makes a motion it could become binding. He stated that EMS funding is going to cost the county \$950,000 for the various providers, and that there has been some discussion about holding an election so that the residents of the unincorporated area could vote on a per household fee to fund the ambulance service. He stated that \$300,000 was put in the 2013 budget to fund EMS, but if they decide to continue funding from within the budget, they will need an additional \$650,000, which will be tough. He stated it has been proposed that the people who live within the unincorporated areas of the county pay a per household fee, similar to NEBCO.

JP Allen stated that he felt that as a court, they should first look within to see if the county can fund it, and then after the budget process is complete, if they cannot come up with the balance or any additional funding beyond the \$300,000, then he is going to recommend that the court draft an ordinance for a per household fee amount.

Comptroller Sarah Daniels stated that there are roughly 19,400 parcels in the unincorporated area, and a \$40 to \$45 charge per household would pay for what it costs.

JP Allen stated that they have been backed into this corner; and have been clearly told that the county is going to have to pay for this service, and if it does not, there are going to be some serious repercussions. He said they have talked about the fact that some people may not ever be served by an ambulance call, but the people have spoken and have said that they want this service. He stated that this is not something that the county is legally required to do, but if we do not, how could we go home and sleep at night thinking that we did not provide an ambulance service. He stated that he wants the court to consider an ordinance setting the per household fee, and look at doing this as representatives of the government; they are elected to do what they are supposed to do.

Sarah Daniels stated that the ambulance service providers are requesting increases in fees for the following years.

JP Allen stated this is not an easy thing to discuss, but he thinks it is incumbent upon the court as elected representatives of the people of the county to provide the service that they have indicated that they want.

JP K. Harrison stated that he agrees with JP Allen that the county has a moral obligation to provide ambulance service to its residents; the court has the duty to figure out how to pay for it. He stated

that he would support holding an election to propose a fee. He stated that he felt that this is morally and ethically correct.

County Attorney George Spence stated that if the court decides to do this, they will be setting up an EMS District. He stated that state law requires a Public Hearing be held before imposing such a fee. He stated after the Public Hearing is held, the Quorum Court meeting at its next meeting would vote the ordinance either up or down, and differing from the way ordinances are usually handed by this court, it will have to be read three times at one meeting by suspending the rules if they want it to become effective for 2014. He explained that the ordinance will have to be published within 10 days after it is passed, and the people will have a 60-day period to file a referendum petition. He stated that the ordinance does not become effective until the referendum period has elapsed, so to make it work within the time allowance, it should be voted on at the next Quorum Court meeting. He added that the Public Hearing notice should be published in a reasonable time in advance of the hearing, and the hearing could be held one night before the Quorum Court meeting.

JP Moehring noted that with 19,000 households, a \$50 fee would generate \$950,000. He asked County Attorney George Spence if forming an EMS district would involve any additional levels of government, or any other kind of committee.

County Attorney George Spence explained how NEBCO's Emergency Medical Services District was formed as a not for profit, and that the court might want to consider some type of administrative board to take it out of the court's authority.

Lengthy discussion was held on setting up an EMS district with per household fees or per capita fees to support ambulance service.

JP Hernandez stated that he is opposed to the per household fee and it would behoove us to look at other opportunities, such as county liquor tax and how it might help fund this kind of service indirectly, without having to go to those individual households.

JP McKenzie stated that we absolutely need to figure out how to fund ambulance service, but that he does not see the county having a viable means of providing ambulance service for everybody in the county, cities, and the unincorporated areas. He said the first thing that he would like to look at is what we can do during the budget process and spend the money that we have.

JP Curry said if this is something that is going to be put on the property tax, then how will that affect the ambulance districts like Gravette, which already charges a voluntary ambulance fee every year.

County Attorney George Spence stated this is an issue that will need to be taken care of when setting up a fee, because any household that already has ambulance coverage will need to be excluded.

Administrator of Public Safety Marshal Watson stated that in the case of Gravette, their fees are voluntary, and that he is pretty confident that should a mandatory per household fee be invoked on households out in the county, Gravette's volunteer membership structure will dissolve, in exchange for the fee. He stated currently it is a voluntary membership to the ambulance service.

County Attorney George Spence stated that the county now collects taxes on six private clubs in the county, and there is a tax or fee that will be collected on beer sales and light wine sales, but neither is going to bring in much revenue. He stated they have previously discussed a sales tax, which could be dedicated to EMS, but that would have to be voted on county wide, and he wonders how you could get that passed. He added that he supposed you could do such a thing; it would have to be dedicated for EMS, and the voters would have to approve it as dedicated to that.

JP K. Harrison stated they have talked before about a sales tax, and that the county will get very little of the money that will be come in; sometimes you just have to do what is right, morally and ethically.



Further discussion was held on establishing EMS fees on a per household basis.

JP Sandlin stated that she has no problem voting to charge a fee. She said it can be done; it is pretty straightforward to mark each real estate property that has been proven residential, it would be coded for that specific item, and be collected by the Collectors Office. She questioned if the County Treasurer will be collecting 3% of the money received, or would this be a dedicated fund that goes directly into the fund. JP Sandlin requested Comptroller Sarah Daniels to check and see if it would be required in this particular incident, because there are some funds coming in which the Treasurer does not receive a 3% fee.

JP Jones stated that he is concerned that next year the fees requested by the providers will go way beyond what they are now.

JP Allen made motion to forward the EMS discussion to the September 03, 2013 Finance Committee agenda for further discussion, seconded by JP Jones.

County Attorney George Spence stated that state law states that when the Quorum Court proposes to enact an ordinance to provide emergency medical services, whether on its own motion or upon petition of electors, it shall set a date for a Public Hearing on the question and shall cause notice to be published. He stated that if they want to get this done for this year, then they probably need to hold the public hearing in September, and they may want to set a date for a public hearing before sending it to the Finance Committee meeting. He stated that it is not required to have a draft of the ordinance published, it just has to be published that we are having a public hearing, and that the subject matter is EMS service to the unincorporated areas in Benton County.

Further discussion was held on whether to set a date for a public hearing or to forward to the September 03, Finance Committee for further discussion.

Motion passed by unanimous show of hands vote.

JP Allen stated that nothing is changing in regard to who is serving whom; nothing is being changed except the fact that they are going to be paying for the service.

JP Hernandez called for point of order.

JP Anglin stated that she thought they were going to have some discussion about the funding formula for EMS.

JP Moehring stated what we need to consider for 2014 is that there really is no formula; there have already been motions forwarded all the way to the Quorum Court for what will be funded for 2014, and this is a stop gap solution to get us through 2014, and sets the stage for what the future might be on the funding side. He stated that they should not stop the discussions with the providers on a formula that gives us some predictably for the future about what these costs are going to be. He stated that he thought this was a big negotiating point with the cities, that this shows a huge amount of good faith on the part of Benton County and the Quorum Court, and that the cities will appreciate that.

Marshall Watson reported that he attended a meeting with the providers, and one of the things that came out of the meeting, although not necessarily embraced by everyone, was the possibility of a per

capita amount. He stated that a \$35 per capita fee would get 90% of the providers where they need to be, and that the payout is approximately \$1.2 million. He stated it all depends on what the court believes is fair in adopting a formula – is it fair to pay \$35 for a per capita fee to make sure that the service is available, or should it be a per household fee, and should there be any type of variable within that fee, which can become complicated.

JP K. Harrison stated that if it is a Medicare or insurance claim, the provider is already receiving mileage and whether it was a per capita or per household fee it would come out about the same. He asked Marshall Watson if they had discussed a maximum cap per year on the amount of increase that the providers could request.

Marshall Watson stated that they had not discussed that with the providers. He stated that there had been some discussion within the administration, that if they were to formulate a per capita or per household fee, then in turn we could attempt to provide an adjustment, maybe comparable with CPI, so that we could theoretically contain the costs each year.

JP K. Harrison stated that he is concerned that if the cities were to change administrations then the fee could change. He stated that he would like to see a cap put on the fees that they cannot exceed in a single year, and as a body we need to try to control those increases to the best of our ability.

JP Anglin stated that she would support looking at the per capita fee; they cannot come up with a list that every provider will agree to, and that in all fairness to the county, we need to have a system.

Further discussion was held on funding Emergency Medical Services.

JP Allen stated that the direction they are heading with all of this will allow the county to have a county run service if we need to, and that it makes economic sense for the county to do this.

County Attorney George Spence stated that they will need to set a public hearing if they are going to set an ordinance to adopt something.

Discussion was held on a date for a Public Hearing for the residents of the unincorporated areas of Benton County with regard to enacting an ordinance to set fees to fund emergency medical services in the unincorporated areas.

JP Allen made motion to set a Quorum Court Public Hearing to provide a public forum for EMS discussion on Thursday, September 05, 2013 at 6:30 p.m., seconded by JP K. Harrison.

Motion passed by unanimous show of hands vote.

JP Anglin stated they have been studying and trying to figure out a formula, with every provider, but that they can never come up with the same set of variables; they come up with a hundred different variables, and that is why looking at per capita seems to make more sense. She stated that she did not think that they would ever come to agreement on a formula.

JP Moore stated in his conversation with officials from Siloam Springs, they have said that if we come up with a formula, even if it is considerably less than what they are receiving in 2014, they will go with it.

JP Adams stated we can argue this forever and will still be arguing when 2014 budget time comes. He said that his challenge to this court is for the county to start its own ambulance service. He said there are a lot of things coming up over the next five years that have to be addressed, and we are just delaying the inevitable, to the point that the seven providers out there are never going to agree on one

set fee; they are not going to allow the county to dictate what they can charge. He stated the county's only option is "all or nothing"; we either have to do it or we cannot do it, we cannot continue to sit here and argue this point back and forth and try to find ways around the inevitable. He added it is inevitable that Benton County is going to have an ambulance service. He stated that he thinks that a Public Hearing is a good idea, but that he does think that this is going to come down to the county having to bite the bullet and do what is right and move forward.

Further discussion was held on the costs to provide EMS service to the unincorporated areas of Benton County.

**Announcements:**

JP Chiocco announced that a Grievance Council meeting will be held on Thursday, August 29, 2013 at 6:00 p.m.

JP Allen announced that a Finance Committee meeting will be held on Tuesday, September 3, 2013 at 6:00 p.m.

JP Allen announced that the Benton County Clean-up will be held October 26, 2013.

JP Moore announced that a Public Hearing of the Quorum Court will be held on Thursday, September 5, 2013 at 6:30 at a location to be determined.

Sarah Daniels announced that the Finance Committee Budget meetings are scheduled to start in mid-October. She stated that everything will be done on the current coding system, but that she will be providing everyone with a listing of the new funds, departments, and object codes.

JP Allen stated that moving forward, all the items that have been discussed, including raises and capital, will all be zero in the budget at first. He stated that they are going to look at what is there, and not spend a dime on increased wages or capital so that we can appropriate money for raises first, and then we can go to capital.

JP Moore suggested to JP Sandlin that the Personnel Committee work with Human Resources Manager Barbara Ludwig to develop a formula for the county employees' pay rates, considering perhaps longevity and a merit pay increase structure that is different than what is in place now. He stated that currently, the only time an employee gets merit pay is when it is authorized by the Quorum Court, and he thinks that we need to have merit pay set up so that after a certain amount of time on the job they should be at a certain pay rate.

**Adjournment:**

There being no further business to come before the court, upon motion and second the meeting adjourned at 8:40 p.m.

Respectfully submitted,

Tena O'Brien

County Clerk